

EXHIBIT A

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

JIM DESMOND

Case No. 09-34-GLL

Plaintiff,

vs.

PHILLIPS & COHEN ASSOCIATES, L.T.D.

Defendant.

AMENDED COMPLAINT

1 Plaintiff seeks relief pursuant to the Fair Debt Collection Practices Act (“FDCPA”), 15 U.S.C. § 1692 and the common law tort of Invasion of Privacy - Intrusion Upon Seclusion.

2. Jurisdiction of this Court arises under 28 U.S.C. § 1331, 15 U.S.C. § 1692k(d) and supplemental jurisdiction exists for the state law claims pursuant to 28 U.S.C. §1367.

3. Plaintiff is a natural person who resides in Washington County, Western District of Pennsylvania.

4. Plaintiff’s deceased wife incurred a debt within the FDCPA, namely a credit card issued by Chase.

5. Defendant holds itself out to the public as a collection agency.

6. Defendant is a debt collector within the FDCPA.

7. According to Defendant’s phone records and account notes, eight (8) phone calls were placed to Plaintiff’s house during a nine (9) day period from February 20, 2008 through February 29, 2008.

8. The Defendant sent to the Plaintiff's address a dunning letter dated February 21, 2008. A copy of the letter is attached hereto as Exhibit 1.

9. The Plaintiff requested the Defendant to cease contact by letter dated February 26, 2008. A copy of the letter is attached hereto as Exhibit 2.

10. The Defendant received Exhibit 2 on February 29, 2008. A copy of the signed green card is attached hereto as Exhibit 3.

11. According to Defendant's phone records and account notes, Phillips & Cohen phoned Desmond six (6) more times between March 3, 2008 through May 19, 2008.

12. The Defendant sent to the Plaintiff's address a dunning letter dated May May 13, 2008. A copy of the letter is attached hereto as Exhibit 4.

13. On May 27, 2008, the plaintiff responded to the defendant as follows:

This is my third notice to you that I am not responsible for the debt of Jill C.

Desmond. I have sent you a written notice on Feb 27 2008 and was told by phone that you would not bother me any more. This is my last notice. See Exhibit 4.

14. The Defendant received Exhibit 4 on May 29, 2008. A copy of the signed green card is attached hereto as Exhibit 5.

15. The Defendant sent to the Plaintiff's address a dunning letter dated June 16, 2008. A copy of the letter is attached hereto as Exhibit 6.

16. The Defendant sent to the Plaintiff's address a dunning letter dated July 3, 2008. A copy of the letter is attached hereto as Exhibit 7.

FIRST COUNT - VIOLATION OF THE FAIR DEBT COLLECTION PRACTICES ACT

17. Plaintiff incorporates paragraphs 1 through 16.

18. In its collection efforts, Defendant violated the FDCPA, *inter alia* §1692c(c).

19. As a result of Defendant's illegal collection activities, plaintiff suffered actual damages in the form of emotional distress, anger, frustration, upset, as well as unjustified and abusive invasions of personal privacy.

20. Plaintiff is entitled to recover statutory damages in the amount of \$1,000, actual damages, reasonable attorney's fees and costs pursuant to 15 U.S.C. §1692k.

SECOND COUNT - INVASION OF PRIVACY BY INTRUSION UPON SECLUSION

21. Plaintiff incorporates paragraphs 1 through 20.

22. Plaintiff had a reasonable expectation of privacy in his solitude, seclusion, private affairs and concerns.

23. Defendant intruded into Plaintiff's solitude, seclusion, private affairs and concerns by repeatedly contacting Plaintiff for a debt he didn't owe after being told to stop.

24. Defendant's intrusion -- attempting to coerce payment from a vulnerable grieving widow after being told to stop--would be highly offensive to a reasonable person.

25. Plaintiff was harmed by Defendant's conduct including harm to his interest in privacy and emotional distress as a result of the invasion of his privacy.

26. Defendant's conduct was a substantial factor in causing Plaintiff's harm.

27. Defendant's conduct as detailed above is malicious, wanton, willful, or oppressive, or shows a reckless indifference to the interests of others, thereby warranting punitive damages.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests the following relief from Defendant:

- a. Actual damages;
- b. Statutory damages;
- c. Punitive damages;
- d. Reasonable attorney's fees;
- e. Costs; and
- f. For such other and further relief as the Court may deem just and proper.

Respectfully Submitted,

JEFFREY L. SUHER, P.C.

/s/ Jeffrey L. Suher

Jeffrey L. Suher, Esquire

Pa. I.D. # 74924

4328 Old Wm Penn Hwy, Ste 2J

Monroeville, PA 15146

412-374-9005

412-374-0799 (fax)

lawfirm@jeffcanhelp.com

JURY TRIAL DEMANDED

EXHIBIT 1

Phillips & Cohen Associates, Ltd.

P.O. Box 48458
Oak Park, MI 48237
Return Service Requested

Ph 800-259-6991
Fx 302-368-0970

02/21/08

Office Hours:
M - Th: 8am - 9pm
Fri: 8am - 6pm
Sat: 8am-12pm

The Estate of:

Jill C Desmond
1683 4TH ST
MONONGAHELA PA 15063-1241



258 Chapman Rd
Suite 205
Newark, DE 19702

Account #: 6906144
Balance: \$11154.67

*** PLEASE DETACH AND RETURN IN THE ENCLOSED ENVELOPE WITH YOUR PAYMENT ***

Re: Client: CHASE BANK, USA, N.A.
Client Acct#: 8285
Our Acct#: 6906144
Balance: \$11154.67

To the Estate of Jill C Desmond:

Our client CHASE BANK, USA, N.A. recently received notification that Jill C Desmond passed away. Initially, on behalf of our client and our office, please accept our condolences.

As you may already know, at the time of the unfortunate passing of Jill C Desmond, the amount of \$11154.67 was owed to CHASE BANK, USA, N.A.. If you have information regarding the Estate of Jill C Desmond, including if there is no Estate, please contact our office by telephone at the above number.

IF YOU HAVE ANY QUESTIONS, YOU MAY CONTACT OUR OFFICE AT THE ABOVE TELEPHONE NUMBER.

Thank you for your prompt attention to this matter.

Sincerely,

Phillips & Cohen Associates, Ltd.

**** IMPORTANT CONSUMER INFORMATION ****

Unless you notify this office within thirty (30) days after receiving this notice that you dispute the validity of this debt or any portion thereof, this office will assume this debt is valid. If you notify this office in writing within thirty (30) days from receiving this notice, this office will: obtain verification of the debt or obtain a copy of a judgment and mail you copy of such verification or judgment. If you request this office in writing within thirty (30) days of receiving this notice, this office will provide you with the name and address of the original creditor, if different from the current creditor. This communication is from a debt collector. This is an attempt to collect a debt and any information obtained will be used for that purpose.

MAILED 2-27-08

A

EXHIBIT 2

Sirs,

Do not contact me any further. I am not responsible for this debt.

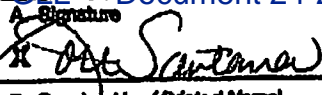
Jim Desmond

EXHIBIT 3

Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits.

Article Addressed to:

Hillips & Cohen Assoc. LTD
258 Chapman Rd
Suite 205
Newark DE 19702

A. Signature 		<input type="checkbox"/> Agent <input type="checkbox"/> Addressee
B. Received by (Printed Name)		C. Date of Delivery 4/9
D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below:		<input type="checkbox"/> No
3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.		
4. Restricted Delivery? (Extra Fee)		<input type="checkbox"/> Yes

Article Number 7007 1490 0001 2041 2675

Transfer from:

Form 3811, February 2004

Domestic Return Receipt

102935-02-M-1540

UNITED STATES POSTAL SERVICE



First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

• Sender: Please print your name, address, and ZIP+4 in this box •

James W. Desmond
1683 4th Street
Monongahela PA 15063



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EXHIBIT 4

258 Chapman Rd, Suite 205
Newark, DE 19702
Phone: 800-259-6991 Fax: 302-368-0970
Office Hours (EST): M-Th 8am-9pm Fri 8am-6pm Sat 8am-12pm

Date: 05/13/08

Client: JPMorgan Chase Bank, N.A.
Client Acct #: 4305875950082858
Phillips & Cohen Acct #: 11938987
Current Balance: \$11,154.67
Savings: \$1,673.20

to the Estate of JILL DESMOND,

*****SPECIAL OFFER TO SETTLE THIS DEBT***
** SAVE \$1,673.20 ****

Contact us toll free at 800-259-6991 to discuss payment arrangements today.
Take advantage of our generous offer to save money and resolve this account!

Choose one of the following options:

1) Save 15% by sending payment in the amount of \$9481.47. This will change the status of this account to "settled in full",
and we will cease any further efforts to collect this account!

— OR —

2) Send a down payment of at least 25.00% of the amount owed, and contact our office at 800-259-6991 to establish a
repayment plan for the remaining amount.

**** We reserve the right to cancel this offer if payment is not received by 05/25/08 ****

Various payment methods available for your convenience:

Enjoy these benefits:

BIG savings!

✓ **Easy payment plans!**

✓ **End the collection calls and letters!**

☒ **Mail to:** 258 Chapman Rd., Suite 205 Newark, DE 19702
CHECK: Make check payable to Phillips & Cohen Associates
and mail with the attached stub
CREDIT CARD¹: Complete the attached stub and mail
☒ **Call 800-259-6991** to authorize check or credit card payment
by phone

This is an attempt to collect a debt. Any information obtained will be used for that purpose. This
communication is from a debt collector.

SEE REVERSE SIDE FOR IMPORTANT CONSUMER INFORMATION.

Payment by Credit Card Transaction Fees: Master Card, Visa and Discover: \$5 per \$150; American Express \$7 per \$150

RS,

This is my third notice to you that I am not responsible for the debt of Jill C Desmond. I have sent you a
written notice on Feb 27 2008, and was told by phone that you would not bother me any more. This is my
last notice.

Jim Desmond

MAILED 5-27-08

D

EXHIBIT 5

- ☒ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
☒ Print your name and address on the reverse so that we can return the card to you.
☒ Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Phillips & Cohen Associates LTD
258 Chapman Rd
Suite 205
Newark DE 19702

A. Signature

X

☐ Agent☐ Addressee

B. Received by (Printed Name)



C. Date of Delivery

- D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

- ☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ O.D.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

2. Article Number

(Transfer from service label)

7005 2570 0000 5926 9833

PS Form 3811, February 2004

Domestic Return Receipt

102895-02-14-1840

UNITED STATES POSTAL SERVICE



First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

• Sender: Please print your name, address, and ZIP+4 in this box •

James Desmond
1683 4th Street
Monongahela PA 15063



EXHIBIT 6

258 Chapman Rd, Suite 205

Newark, DE 19702

Phone: 800-477-6441

Fax: 302-368-3075

Office Hours (EST): M-Th 8am-9pm

Fri 8am-6pm Sat 8am-12pm

Client: JPMorgan Chase Bank, N.A.

Client Acct #: 4305875950082858

Phillips & Cohen Acct #: 11938987

Current Balance: \$11,154.67

Savings: \$1,673.20

Date: 06/16/08

To the Estate of JILL DESMOND,

*****SPECIAL OFFER TO SETTLE THIS DEBT *****

**** SAVE \$1,673.20 ****

Contact us toll free at 800-477-6441 to discuss payment arrangements today.

Take advantage of our generous offer to save money and resolve this account!

Choose one of the following options:

1) Save 15% by sending payment in the amount of \$9481.47. This will change the status of this account to "settled in full".
and we will cease any further efforts to collect this account!

— OR —

2) Send a down payment of at least 25% of the amount owed, and contact our office at 800-477-6441 to establish a
repayment plan for the remaining amount.

**** We reserve the right to cancel this offer if payment is not received by 07/03/08 ****

Various payment methods available for your convenience:

Enjoy these benefits:

✓ BIG savings!

✓ Easy payment plans!

✓ End the collection calls and letters!

☒ Mail to: 258 Chapman Rd., Suite 205 Newark, DE 19702
CHECK: Make check payable to Phillips & Cohen Associates
and mail with the attached stub

CREDIT CARD¹: Complete the attached stub and mail

☐ Call 800-477-6441 to authorize check or credit card payment
by phone

This is an attempt to collect a debt. Any information obtained will be used for that purpose. This
communication is from a debt collector

SEE REVERSE SIDE FOR IMPORTANT CONSUMER INFORMATION.

¹ Payment by Credit Card Transaction Fees: Master Card, Visa and Discover: \$5 per \$150; American Express \$7 per \$150

Please detach bottom portion and return with your payment.

Phillips & Cohen Associates, Ltd.

258 Chapman Rd, Suite 205

Newark, DE 19702-5444

Client: JPMorgan Chase Bank, N.A.

Client Acct #: 4305875950082858

Phillips & Cohen Acct #: 11938987

Current Balance: \$11,154.67

Savings: \$1,673.20

Please see back for payment options.

If paying by Credit Card, please check the below box.

JILL DESMOND

1683 4TH ST

MONONGAHELA, PA 15063-1241

15057 - 1066



Phillips & Cohen Associates, Ltd.
258 Chapman Rd, Suite 205
Newark, DE 19702-5444



EXHIBIT 7

Fri 8am-6pm Sat 8am-12pm

Savings: \$1,673.20

To the Estate of JILL DESMOND.

**** SAVE \$1,673.20 ****

**** We reserve the right to cancel this offer if payment is not received by 07/22/08 ****

Phillips & Cohen Associates, Ltd.
258 Chapman Rd, Suite 205
Newark, DE 19702-5444

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